

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

COMMERCIAL STREET EXPRESS LLC,  
NICOLE VANDER MUELEN, SHASTA  
BURZYNSKI, and KATHLEEN COULLARD,

Plaintiffs,

v.

SARA LEE CORPORATION, COLGATE-  
PALMOLIVE COMPANY, HENKEL CHEMIE  
VERWALTUNGSGESELLSCHAFT MBH,  
HENKEL CORP., UNILEVER N.V., UNILEVER  
PLC, and UNILEVER UNITED STATES INC.,

Defendants.

Case No. 08 C 1179

Honorable Virginia M. Kendall

**DEFENDANT UNILEVER NV'S MOTION TO DISMISS THE AMENDED  
CLASS ACTION COMPLAINT**

Defendant Unilever NV (“NV”) by and through its attorneys and upon its Memorandum in Support of Motion to Dismiss by Unilever NV (“Memorandum in Support”), and the accompanying declaration of Stephen Williams (filed herewith), hereby moves this Court for an order, pursuant to Rules 12(b)(1), 12(b)(2) and 12(b)(6) of the Federal Rules of Civil Procedure, dismissing the Amended Class Action Complaint (the “Complaint”) in the above-captioned action with prejudice.

As detailed in its Memorandum in Support, Plaintiffs’ Complaint necessarily fails because:

- (1) The Court lacks personal jurisdiction over NV, because NV does not have sufficient minimum contacts with the United States;
- (2) Plaintiffs fail to state a claim for any violation of federal or state law;
- (3) The Court lacks subject matter jurisdiction over Count I, because Plaintiffs do not allege any conduct in or affecting U.S. domestic commerce as

required by the Foreign Trade Antitrust Improvements Act of 1982, Pub. L. No. 97-290 § 402, 96 Stat. 1233, 1246 (codified at 15 U.S.C. § 6a);

- (4) The Court lacks subject matter jurisdiction over all counts, because Plaintiffs lack Article III standing; the Complaint does not assert a causal connection between Plaintiffs' alleged injury and the conduct alleged in Germany;
- (5) Plaintiffs lack standing to pursue Count II to the extent it relies on state law outside Michigan and Wisconsin and lack standing to pursue Count III in its entirety.

WHEREFORE, NV respectfully requests that the Court dismiss Plaintiffs' claims against it and award such other relief as the Court deems just and proper. Counsel for Plaintiffs and counsel for NV have agreed to adhere to the briefing schedule set forth by the Court in its May 13, 2003 Order. NV separately is submitting a proposed order reflecting this agreement, a copy of which is attached hereto as Exhibit A. Should the Court wish oral argument on the issues raised by the instant Motion, NV suggests that it be scheduled on August 1, 2008, the same date previously set by the Court in connection with the other pending motions to dismiss.

May 30, 2008

Respectfully submitted,

By: /s/ Britt M. Miller

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*Attorneys for Unilever NV*

**CERTIFICATE OF SERVICE**

I, Britt M. Miller, an attorney, hereby certify that on May 30, 2008, I caused a true and correct copy of the foregoing **DEFENDANT UNILEVER NV'S MOTION TO DISMISS THE AMENDED CLASS ACTION COMPLAINT**, to be filed and served electronically via the court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

/s/ Britt M. Miller

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